

In re Application of:
Carson and Albani
Application No.: 09/616,247
Filed: July 14, 2000
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PATENT
Attorney Docket No.: UCSD1370-5

REMARKS

Claims 10, 18, 19, 22-24 and 32 were pending prior to this Response. By the present communication, no claims have been added, claims 23 and 24 have been canceled without prejudice, and claims 10 and 32 has been amended to recite Applicants' invention with greater particularity. The claim amendments do not constitute new matter, being fully supported by the Specification and original claims. Accordingly, claims 10, 18, 19, 22 and 32 are currently pending in this application.

Sequence Requirements

Applicants respectfully traverse the objection that the application fails to comply with the requirements of 37 C.F.R. §§1.821-1.825 by not identifying sequences by sequence identifiers. However, to reduce the issues and further prosecution, Applicants have amended the paragraphs beginning at page 1, line 21; page 2, line 15; and page 37, line 22 to insert appropriate sequence identifiers. Support for the amended paragraphs may be found in the sequence listing as originally filed. Withdrawal of the objection is respectfully requested.

Objection to the Claims

Applicants respectfully traverse the objection to claims 22-24 as allegedly being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicants have canceled claims 23 and 24, rendering the objection moot as to those claims. With regard to claim 22, Applicants respectfully submit that there is no evidence of record that the genera listed in claim 22 comprise an amino acid sequence of dnaJp1 (SEQ ID NO: 4). Submitted herewith are Exhibits A-C, which disclose hsp protein sequences from three of the named genera, namely *E. coli*, *Proteus*, and *Lactococcus*. Accordingly, each of these proteins are well known in the art, and do in fact include SEQ ID NO: 4. It is noteworthy to mention that a reference to *Lacococcus* is provided in the specification at page 11, line 26.

Applicants respectfully submit that Exhibits A-C provide evidence to allow for a determination that a family of molecules is commonly found within various bacterial species, which as a group, can include the listed genera in claim 22. Applicants respectfully request withdrawal of the objections.

Rejection Under 35 U.S.C. §112, First Paragraph

Applicants respectfully traverse the rejection of claims 23 and 24 under 35 U.S.C. §112, first paragraph as allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one of skill in the art that the inventors has possession of the claimed invention at the time of filing. Applicants have canceled claims 23 and 24, rendering the rejection moot. Withdrawal of the rejection is respectfully requested.

Rejection Under 35 U.S.C. § 112, Second Paragraph

Applicants respectfully traverse the rejection of claims 10, 18, 19, 22-24 and 32 under 35 U.S.C. §112, second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants have canceled claims 23 and 24, rendering the rejection moot as to those claims.

Regarding claim 10, the Examiner alleges that “a” means “any”, and therefore the metes and bounds of the claimed peptide is indefinite. As suggested, Applicants have amended claim 10 to recite, “the bacterial dnaJp1 peptide consisting of the amino acid sequence as set forth in SEQ ID NO: 4.” Similarly, the Examiner alleges that “containing a polynucleotide of claim 10” in claim 32 lacks antecedent basis in claim 10. Applicants have amended claim 32 to recite, “the polynucleotide of claim 10.” Accordingly, Applicants respectfully request withdrawal of the rejections.

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CONCLUSION

In summary, for the reasons set forth herein, Applicants submit that claims 10, 18, 19, 22 and 32 clearly and patentably define the invention, respectfully request that the Examiner reconsider the various grounds set forth in the Office Action, and respectfully request the allowance of the claims which are now pending. If the Examiner would like to discuss any of the issues raised in the Office Action, the Examiner is encouraged to call the undersigned so that a prompt disposition of this application can be achieved.

The Commissioner is hereby authorized to charge for any additional required fees, or credit any overpayments to Deposit Account No. 07-1896.

Respectfully submitted,

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